

IN RE:

GREGORY E and SHENELL Y BINGHAM

SSN OR TAX ID: ###-##-2072 ###-##-1256

* CHAPTER 13 BANKRUPTCY
* CASE NO: 03-44675-H1-13
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TRUSTEE'S MOTION TO DISMISS WITH/ WITHOUT PREJUDICE OR CONVERT TO CHAPTER 7

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

NOW COMES, DANIEL E. O'CONNELL, Trustee herein, and on grounds that debtor has failed to appear in proper prosecution of this case, moves for the dismissal or conversion of this case pursuant to 11 U.S.C. Sec. 1307 (c) & (d) as follows:

- _____ Failed to file amendments as required by the Trustee by
- _____ A. Amendments to Debtors Petition
 - _____ B. Amendments to Chapter 13 Statement
 - _____ C. Amendments to Family Budget
 - _____ D. Amendments to Schedules
 - _____ E. Amendments to Plan
 - _____ F. Amendments to Summary of Debtor's Plan
- _____ Failed to make plan payments as required by Section 1326 (A) (1) and 1307 (C) (4) of the United States Bankruptcy Code.
- _____ Failed to make plan payments which were agreed to be made under the proposed modified plan.
- X Failed to make plan payments into a confirmed plan as required by Section 1307 (C) (6) of the United States Bankruptcy Code.
- _____ Failed to provide a feasible plan of arrangement which can be recommended to this Court and confirmed by this Court within the requirements of Section 1325 and 1307 (C) (5) of the United States Bankruptcy Code and/or has had a denial of confirmation of proposed plan pursuant to Section 1307.

Debtor's above listed failures to perform may be willful within the meaning of 11 U.S.C. Section 109 (g) (1).

NOW THEREFORE, PREMISES CONSIDERED, your Chapter 13 Trustee respectfully prays that this case be dismissed, dismissed with prejudice, or converted to a Chapter 7.

Dated this the 26th day of May 2004.

/s/ Daniel E. O'Connell_____
DANIEL E. O'CONNELL, TRUSTEE

I hereby certify under penalties of perjury that, on May 26, 2004 a true and correct copy of the following motion has been served via regular U. S. mail, postage prepaid or electronically transmitted, on Debtor, Debtor's Attorney of Record, the U. S. Trustee and all other parties in interest.

GREGORY E and SHENELL Y BINGHAM
7321 RHOBELL ST
HOUSTON, TX 77016-3833

CHRISTOPHER MORRISON
2100 WEST LOOP S STE 900
HOUSTON, TX 77027-3522

Dated this the 26th day of May 2004.

/s/ Daniel E. O'Connell_____
DANIEL E. O'CONNELL, TRUSTEE

IF YOU WANT A HEARING, YOU MUST REQUEST ONE IN WRITING AND YOU MUST RESPOND SPECIFICALLY TO EACH PARAGRAPH OF THIS PLEADING. YOU MUST FILE YOUR RESPONSE WITH THE CLERK OF THE BANKRUPTCY COURT WITHIN TWENTY DAYS FROM THE DATE YOU WERE SERVED AND GIVE A COPY TO THE PERSON WHO SENT YOU THE NOTICE; OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF.

If a hearing is timely requested, the hearing shall be at 9:30 a.m. on July 14, 2004 at the United States Bankruptcy Court, 515 Rusk St, 10th Floor, Courtroom 10-B, Houston, Texas 77002.